

108TH CONGRESS
1ST SESSION

H. R. 343

To amend title 11 of the United States Code to protect family farmers
and family fishermen.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2003

Ms. BALDWIN introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To amend title 11 of the United States Code to protect
family farmers and family fishermen.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Farmers and
5 Family Fishermen Protection Act of 2003”.

6 **SEC. 2. PERMANENT REENACTMENT OF CHAPTER 12.**

7 (a) REENACTMENT.—

8 (1) IN GENERAL.—Chapter 12 of title 11,
9 United States Code, as reenacted by section 149 of
10 division C of the Omnibus Consolidated and Emer-

1 agency Supplemental Appropriations Act, 1999 (Pub-
2 lic Law 105–277), is hereby reenacted, and as here
3 reenacted is amended by this Act.

4 (2) EFFECTIVE DATE.—Subsection (a) shall
5 take effect on the date of the enactment of this Act.

6 (b) CONFORMING AMENDMENT.—Section 302 of the
7 Bankruptcy Judges, United States Trustees, and Family
8 Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is
9 amended by striking subsection (f).

10 **SEC. 3. DEBT LIMIT INCREASE.**

11 Section 104(b) of title 11, United States Code, is
12 amended by inserting “101(18),” after “sections” each
13 place it appears.

14 **SEC. 4. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.**

15 (a) CONTENTS OF PLAN.—Section 1222(a)(2) of title
16 11, United States Code, is amended to read as follows:

17 “(2) provide for the full payment, in deferred
18 cash payments, of all claims entitled to priority
19 under section 507, unless—

20 “(A) the claim is a claim owed to a govern-
21 mental unit that arises as a result of the sale,
22 transfer, exchange, or other disposition of any
23 farm asset used in the debtor’s farming oper-
24 ation, in which case the claim shall be treated
25 as an unsecured claim that is not entitled to

1 priority under section 507, but the debt shall be
2 treated in such manner only if the debtor re-
3 ceives a discharge; or

4 “(B) the holder of a particular claim
5 agrees to a different treatment of that claim;”.

6 (b) SPECIAL NOTICE PROVISIONS.—Section 1231(d)
7 of title 11, United States Code, is amended by striking
8 “a State or local governmental unit” and inserting “any
9 governmental unit”.

10 **SEC. 5. DEFINITION OF FAMILY FARMER.**

11 Section 101(18) of title 11, United States Code, is
12 amended—

13 (1) in subparagraph (A)—

14 (A) by striking “\$1,500,000” and inserting
15 “\$3,237,000”; and

16 (B) by striking “80” and inserting “50”;
17 and

18 (2) in subparagraph (B)(ii)—

19 (A) by striking “\$1,500,000” and inserting
20 “\$3,237,000”; and

21 (B) by striking “80” and inserting “50”.

1 **SEC. 6. ELIMINATION OF REQUIREMENT THAT FAMILY**
 2 **FARMER AND SPOUSE RECEIVE OVER 50 PER-**
 3 **CENT OF INCOME FROM FARMING OPER-**
 4 **ATION IN YEAR PRIOR TO BANKRUPTCY.**

5 Section 101(18)(A) of title 11, United States Code,
 6 is amended by striking “for the taxable year preceding the
 7 taxable year” and inserting the following:

8 “for—

9 “(i) the taxable year preceding; or

10 “(ii) each of the 2d and 3d taxable years
 11 preceding;
 12 the taxable year”.

13 **SEC. 7. PROHIBITION OF RETROACTIVE ASSESSMENT OF**
 14 **DISPOSABLE INCOME.**

15 (a) CONFIRMATION OF PLAN.—Section 1225(b)(1) of
 16 title 11, United States Code, is amended—

17 (1) in subparagraph (A) by striking “or” at the
 18 end;

19 (2) in subparagraph (B) by striking the period
 20 at the end and inserting “; or”; and

21 (3) by adding at the end the following:

22 “(C) the value of the property to be distributed
 23 under the plan in the 3-year period, or such longer
 24 period as the court may approve under section
 25 1222(c), beginning on the date that the first dis-
 26 tribution is due under the plan is not less than the

1 debtor's projected disposable income for such pe-
2 riod.”.

3 (b) MODIFICATION OF PLAN.—Section 1229 of title
4 11, United States Code, is amended by adding at the end
5 the following:

6 “(d) A plan may not be modified under this section—

7 “(1) to increase the amount of any payment
8 due before the plan as modified becomes the plan;

9 “(2) by anyone except the debtor, based on an
10 increase in the debtor's disposable income, to in-
11 crease the amount of payments to unsecured credi-
12 tors required for a particular month so that the ag-
13 gregate of such payments exceeds the debtor's dis-
14 posable income for such month; or

15 “(3) in the last year of the plan by anyone ex-
16 cept the debtor, to require payments that would
17 leave the debtor with insufficient funds to carry on
18 the farming operation after the plan is completed.”.

19 **SEC. 8. FAMILY FISHERMEN.**

20 (a) DEFINITIONS.—Section 101 of title 11, United
21 States Code, is amended—

22 (1) by inserting after paragraph (7) the fol-
23 lowing:

24 “(7A) ‘commercial fishing operation’ means—

1 “(A) the catching or harvesting of fish,
2 shrimp, lobsters, urchins, seaweed, shellfish, or
3 other aquatic species or products of such spe-
4 cies; or

5 “(B) for purposes of section 109 and chap-
6 ter 12, aquaculture activities consisting of rais-
7 ing for market any species or product described
8 in subparagraph (A);

9 “(7B) ‘commercial fishing vessel’ means a ves-
10 sel used by a family fisherman to carry out a com-
11 mercial fishing operation;” and

12 (2) by inserting after paragraph (19) the fol-
13 lowing:

14 “(19A) ‘family fisherman’ means—

15 “(A) an individual or individual and spouse
16 engaged in a commercial fishing operation—

17 “(i) whose aggregate debts do not ex-
18 ceed \$1,500,000 and not less than 80 per-
19 cent of whose aggregate noncontingent, liq-
20 uidated debts (excluding a debt for the
21 principal residence of such individual or
22 such individual and spouse, unless such
23 debt arises out of a commercial fishing op-
24 eration), on the date the case is filed, arise
25 out of a commercial fishing operation

1 owned or operated by such individual or
2 such individual and spouse; and

3 “(ii) who receive from such commer-
4 cial fishing operation more than 50 percent
5 of such individual’s or such individual’s
6 and spouse’s gross income for the taxable
7 year preceding the taxable year in which
8 the case concerning such individual or such
9 individual and spouse was filed; or

10 “(B) a corporation or partnership—

11 “(i) in which more than 50 percent of
12 the outstanding stock or equity is held
13 by—

14 “(I) 1 family that conducts the
15 commercial fishing operation; or

16 “(II) 1 family and the relatives
17 of the members of such family, and
18 such family or such relatives conduct
19 the commercial fishing operation; and

20 “(ii)(I) more than 80 percent of the
21 value of its assets consists of assets related
22 to the commercial fishing operation;

23 “(II) its aggregate debts do not ex-
24 ceed \$1,500,000 and not less than 80 per-
25 cent of its aggregate noncontingent, liq-

1 uidated debts (excluding a debt for 1
 2 dwelling which is owned by such corpora-
 3 tion or partnership and which a share-
 4 holder or partner maintains as a principal
 5 residence, unless such debt arises out of a
 6 commercial fishing operation), on the date
 7 the case is filed, arise out of a commercial
 8 fishing operation owned or operated by
 9 such corporation or such partnership; and

10 “(III) if such corporation issues stock,
 11 such stock is not publicly traded;

12 “(19B) ‘family fisherman with regular annual
 13 income’ means a family fisherman whose annual in-
 14 come is sufficiently stable and regular to enable such
 15 family fisherman to make payments under a plan
 16 under chapter 12 of this title;”.

17 (b) WHO MAY BE A DEBTOR.—Section 109(f) of title
 18 11, United States Code, is amended by inserting “or fam-
 19 ily fisherman” after “family farmer”.

20 (c) CHAPTER 12.—Chapter 12 of title 11, United
 21 States Code, is amended—

22 (1) in the chapter heading, by inserting “**OR**
 23 **FISHERMAN**” after “**FAMILY FARMER**”;

24 (2) in section 1203, by inserting “or commer-
 25 cial fishing operation” after “farm”; and

1 (3) in section 1206, by striking “if the property
 2 is farmland or farm equipment” and inserting “if
 3 the property is farmland, farm equipment, or prop-
 4 erty used to carry out a commercial fishing oper-
 5 ation (including a commercial fishing vessel)”.

6 (d) CLERICAL AMENDMENT.—In the table of chap-
 7 ters for title 11, United States Code, the item relating to
 8 chapter 12, is amended to read as follows:

**“12. Adjustments of Debts of a Family Farmer or Family
 Fisherman with Regular Annual Income 1201”.**

9 (e) APPLICABILITY.—Nothing in this section shall
 10 change, affect, or amend the Fishery Conservation and
 11 Management Act of 1976 (16 U.S.C. 1801 et seq.).

12 **SEC. 9. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

13 This Act and the amendments made by this Act shall
 14 take effect on the date of the enactment of this Act and
 15 shall not apply with respect to cases commenced under
 16 title 11 of the United States Code before such date.

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